BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.1
DATE: February 2, 2011

ACTION REQUESTED:	2009-2010 Goals and Objectives: Summary of Accomplishments
REQUESTED BY:	Louise Bailey, MEd, RN Executive Officer

BACKGROUND:
A summary of the 2009-2010 Goals and Objectives: Summary of Accomplishments has been compiled for review.

NEXT STEP:	Place on Board Agenda
FINANCIAL IMPLICATIONS, IF ANY:	None
PERSON TO CONTACT:	Louise Bailey, MEd, RN Executive Officer (916) 574-7600

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE

Goals and Objectives
2009-2010 Summary of Accomplishments

GOAL 1: **Keep the Board of Registered Nursing informed about pertinent legislation and regulations that may affect nursing practice, education, and nurses' roles in the delivery of health care and administrative functions of the Board.**

OBJECTIVE: 1.1 Analyze legislative proposals and make position recommendations to the Board at each Board meeting.

The committee provided information and analyses of each bill followed, and made recommendations to the Board at each Board meeting.

During the 2009/2010 Legislative Session, many bills of general interest to the Board or those having potential impact on the administration of the Board were followed. Although these bills address many subjects, each affects registered nursing in some way. There were fifty-five (55) bills followed by the Board, seventeen (17) were signed into law by the Governor, six (6) were vetoed and thirty-two (32) failed in committees or were no longer applicable to the Board.

GOAL 2: **Monitor current legislation on behalf of the Board.**

OBJECTIVE: 2.1 Advocate for or against legislation as directed by the Board.

The committee monitored legislative bills relative to the Board and committee staff advocated for bills supported by the Board and voiced the concerns of the Board for those bills in opposition.

- Committee staff continued to respond to public inquires concerning bills followed by the Board.

- Numerous legislative Committee hearings, concerning bills followed by the Board, were attended.

OBJECTIVE: 2.2 Review and suggest appropriate amendments as necessary.

The committee staff participated in recommending and writing amendments to specific bills relative to Board action.

- Committee staff attended legislative meetings and communicated with legislator's staff to articulate the Board's position on specific bills.
- Committee staff sent letters to various senators and assembly members expressing the Board's position of support or opposition to their respective bills.
- The Governor was sent letters requesting that specific bills, relative to the Board of Registered Nursing and consistent with Board's action, be signed or vetoed.

GOAL 3: **Serve as a resource to other Board Committees on legislative and regulatory matters.**

OBJECTIVE: 3.1 Assist other Board Committees in reviewing legislative regulatory proposals.

The committee staff served as a resource to other Board Committee members and committee liaisons concerning legislative issues that impacted their respective committees. The following are examples of issues and projects on which the Committee staff collaborated with other committees and/or staff:

- Cosmetic Surgery (Carter) - Nursing practice Committee
- Pupil Health Fletcher) – Nursing Practice
- Postsecondary Education (Fuller) – Education/Licensing Committee
- California State University: Doctor of Nursing Practice degree pilot program – Education/Licensing Committee
- Postsecondary Education: student transfer – Education/Licensing Committee
- Pilot Program for Innovative Nursing and Allied Health Care – Licensing /Education Committee
- Professions and Vocations: license: military service – Education/Licensing Committee
- California Community Colleges: student transfers – Education/Licensing Committee
- Licensing Boards: disciplinary action – Diversion/Discipline Committee
- Regulatory Boards: diversion programs – Diversion/Discipline Committee
- Department of Consumer Affairs: regulatory boards – Administrative Committee

GOAL 4: **Enhance the Board's process to proactively identify legislation that potentially impacts nursing and the Board.**

OBJECTIVE: 4.1 Evaluate additional resources, e.g. Internet, new legislative publications, etc., as sources of pertinent legislative information.

Staff utilized the California Legislative Information maintained by the Legislative Council on the Internet, as well as State Net. Legislative

publications from various associations, and state publications, were also used as resources for legislative activities.

OBJECTIVE: 4.2 Maintain consistent dialogues with Department of Consumer Affairs (DCA) Legislative Unit, Legislators and their staff.

The committee was proactive in identifying and monitoring legislation relative to the Board.

- Committee staff communicated frequently and regularly with DCA Legislative staff to identify proposed legislation and its potential impact on the BRN.
- Committee staff met and communicated frequently with organizations, and sponsors of legislation to articulate and clarify issues relative to the BRN.
- Committee staff met with the Associate Degree Nursing Program Directors and the Baccalaureate Degree Nursing Program Directors and presented proposed legislation that impacted the programs.
- Committee communicated with other state departments, relative to legislation impacting the BRN.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.2
DATE: February 2, 2011

ACTION REQUESTED: 2009-2010 Legislative Session Summary

REQUESTED BY: Louise Bailey, MEd, RN
Executive Officer

BACKGROUND:
A summary of the 2009-2010 Legislative Session has been compiled for review.

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
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(916) 574-7600

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE

2009-2010 Legislative Summary

During the 2009-2010 Legislative Session, many bills of general interest to the Board or those having potential impact on the administration of the Board were followed. Although these bills address many subjects, each affects registered nursing in some way. There were fifty-five (55) bills followed by the Board, seventeen (17) were signed into law by the Governor, six (6) were vetoed and thirty-two (32) failed in committees or were no longer applicable to the Board. The following is a brief description of the chaptered bills followed by the Board. Unless otherwise stated, the statutes of 2009 became effective January 1, 2010, and the statutes of 2010 became effective January 1, 2011.

AB 48 (Portantino & Niello)
Chapter 310, Statutes of 2009
Private postsecondary education: DCA

AB 48 revises and recasts the Private Postsecondary and Vocational Education Reform Act of 1989 into the California Private Postsecondary Education Act of 2009, provides for the transition to the bureau for the Private Postsecondary Education, outlines its responsibilities, provides for the approval, regulation, and enforcement of private postsecondary educational institutions, establishes reporting requirements, and repeals the Act on January 1, 2016.

AB 116 (Carter)
Chapter 509, Statutes of 2009
Cosmetic Surgery

AB 116 enacts the Donda West Law, which prohibits the performance of an elective cosmetic surgery procedure on a patient unless, within 30 days prior to the procedure, the patient has received an appropriate physical examination by, and has received written clearance for the procedure from, a licensed physician and surgeon, a certified nurse practitioner, or a licensed physician assistant, as specified, or, as applied to an elective facial cosmetic surgery procedure, a licensed dentist or licensed physician and surgeon. It requires the physical examination to include the taking of an appropriate medical history, to be confirmed on the day of the procedure.

AB 867 (Nava)
Chapter 416, Statutes of 2010
California State University: Doctor of Nursing degree pilot program

AB867 permits the California State University to establish a Doctor of Nursing Practice degree program at campuses chosen by the Board of Trustees to award the Doctor of Nursing Practice degree. The enrollment is limited to no more than 90 full-time students at all three campuses combined. It requires the California State University, the Legislative Analyst's Office, and the Department of Finance to jointly conduct a statewide evaluation of the degree pilot program and report the results to the Legislature and the Governor on or before January 1, 2017.

AB 1071 (Emmerson)
Chapter 270, Statutes of 2009
Professions and Vocations

AB 1071 amends, adds, and repeals sections of the Business and Professions Code, relating to professions and vocations. It provides Sunset extensions for several boards, including the Board of Registered Nursing. The Board of Registered Nursing will sunset January 1, 2013.

AB 1295 (Fuller)
Chapter 283, Statutes of 2009
Postsecondary education: nursing degree programs

AB 1295 requires the Chancellor of the California State University to implement articulated nursing degree transfer pathways between the California Community Colleges and CSU prior to the commencement of the 2012–13 academic year. It requires the articulated nursing degree transfer pathways to meet prescribed requirements and authorizes the Chancellor of the California State University and the Chancellor of the California Community Colleges to appoint representatives from their respective institutions to work collaboratively to provide advice and assistance relating to prescribed topics. It also requires the Legislative Analyst's Office, by March 15, 2011, to prepare and submit to the Legislature and Governor a report on the status of plans to implement the articulated nursing degree transfer pathways.

AB 1937 (Fletcher)
Chapter (203), Statutes of 2010
Pupil Health: immunizations

AB 1937 authorizes registered nurses, nurse practitioners, physician assistants, licensed

vocational nurses and student nurses (under the supervision of a registered nurse) to administer immunizations within the course of a school immunization program. The provisions take effect immediately as an urgency statute.

AB 2344 (Nielson)
Chapter (208), Statutes of 2010
Nursing: approved schools

AB 2344 provides for a school, seeking approval to start a nursing program, which is not an institution of higher education, to make an agreement with an "institution of higher education" that grants an associate of arts degree or an associate of science degree.

AB 2385 (Perez)
Chapter (679), Statutes of 2010
Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges

AB 2385 establishes the Pilot Program for Innovative Nursing and Allied Health Care Profession Education at the California Community Colleges under the administration of the Office of the Chancellor of the California Community Colleges, to facilitate the graduation of community college nursing and allied health students by piloting innovative models to expand the state's capacity to prepare a qualified health care workforce.

AB 2500 (Hagman)
Chapter 389, Statutes of 2010
Professions and Vocations: licenses: military services

AB 2500 waives the penalty fee for late renewal of any type of state license, for any profession subject to regulation by any board, bureau, or entity within the Department of Consumer Affairs for a member of the California National Guard or the United States Armed Forces, who was on active duty at the time of the lapse of the license.

AB 2699 (Bass)
Chaptered (270), Statutes of 2010
Healing Arts: licensure exemption

AB 2699 exempts out-of-state licensed healthcare practitioners from California licensure requirements, until January 1, 2014, when participating in a free healthcare event

sponsored by an approved nonprofit organization. It requires the sponsoring entity and all participating out-of-state healthcare practitioners to meet specified requirements, and register in advance with the appropriate licensing board and comply with California law during the event.

AB 2783 (Committee on Veterans Affairs)
Chaptered (214), Statutes of 2010
Professions and Vocations: military personnel

AB 2783 requires state boards to consult with the Military Department before adopting rules and regulations related to the education, training, and experience obtained in the armed services and how it can meet licensure requirements for occupations and professions licensed and regulated under the Department of Consumer Affairs.

SB 112 (Oropeza)
Chapter 559, Statutes of 2009
Hemodialysis Technicians

SB112 revises the training requirements for certified hemodialysis technicians (CHT) and prohibits an individual from providing services as a hemodialysis technician without being certified by the Department of Public Health as a CHT. It requires the individual to meet certain educational and work requirements, including the successful completion of a training program approved by the medical director and governing body of a hemodialysis clinic or unit, under the direction of a registered nurse.

SB 294 (Negrete McLeod)
Chaptered (695), Statutes of 2010
Department of Consumer Affairs: regulatory boards

SB 294 changes the sunset review date on various boards, bureaus, and programs within the Department of Consumer Affairs, including the Board of Registered Nursing. The sunset date for the BRN is **January 1, 2012** instead of **January 1, 2013.**

SB 819 (Committee on Business, Professions, and Economic Development
Chapter 308, Statutes of 2009
Professions and vocations

SB 819 requires a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

It also authorizes the implementation of standardized procedures that expand the duties of a nurse practitioner in the scope of his or her practice, as follows:

- Order durable medical equipment, subject to any limitations set forth in the standardize procedure.
- Certify a disability, after performance of a physical examination and collaboration with a physician.
- Approve, sign, modify, or add to a plan of treatment or plan of care, for individuals receiving home health services or personal care services, after consultation with the treating physician.

SB 1172 (Negrete McLeod),
Chaptered (517), Statutes of 2010
Regulatory Boards: diversion programs

SB 1172 requires a healing arts board to order a licensee to cease practice if the licensee tests positive for any prohibited substance under the terms of the licensee's probation or diversion program. It also authorizes a board to adopt regulations authorizing it to order a licensee on probation or in a diversion program to cease practice for major violations of probation or the diversion program, when the board orders a licensee to undergo a clinical diagnostic evaluation. The Diversion Program, within the Board of Registered Nursing, is exempt from these provisions.

SB 1440 (Padilla)
Chapter (428), Statutes of 2010
California Community Colleges: student transfers

SB 1440 enacts the Student Transfer Achievement Reform Act, commencing with the 2011–12 academic year. It requires a student that earns an associate degree for transfer to be deemed eligible for transfer into a California State University baccalaureate program when the student meets prescribed requirements. It requires the California State University to guarantee admission with junior status to any community college student who meets the requirements for the associate degree for transfer.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.3
DATE: February 2, 2011

ACTION REQUESTED:	2011-2012 Goals and Objectives for the two year Legislative Session.
REQUESTED BY:	Louise Bailey, MEd, RN Executive Officer

BACKGROUND:
The 2011-2012 Goals and Objectives of the Legislative Committee are being submitted for review and approval.

NEXT STEP:	Place on Board Agenda
FINANCIAL IMPLICATIONS, IF ANY:	None
PERSON TO CONTACT:	Louise Bailey, MEd, RN Executive Officer (916) 574-7600

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE

2011-2012 Goals and Objectives

GOAL 1: **Keep the Board of Registered Nursing informed about pertinent legislation that may affect nursing practice, education, nurses' roles in the delivery of health care and administrative functions of the Board.**

OBJECTIVE: 1.1 Analyze legislative proposals and make position recommendations to the Board at each Board meeting.

GOAL 2: **Monitor current legislation on behalf of the Board.**

OBJECTIVE: 2.1 Advocate for or against legislation as directed by the Board.

OBJECTIVE: 2.2 Review and suggest appropriate amendments as necessary.

GOAL 3: **Serve as a resource to other Board Committees on legislative and regulatory matters.**

OBJECTIVE: 3.1 Assist other Board Committees in reviewing legislative and regulatory proposals.

GOAL 4: **Enhance the Board's process to proactively identify legislation that potentially impacts nursing and the Board.**

OBJECTIVE: 4.1 Evaluate resources, e.g. Internet, new legislative publications, etc., as sources of pertinent legislative information.

OBJECTIVE: 4.2 Maintain consistent dialogue with DCA legislative unit, legislators and their staff.

OBJECTIVE 4.3 Provide testimony to the Legislature, on behalf of the Board, as requested.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.4
DATE: February 2, 2011

ACTION REQUESTED: Positions on Bills of Interest to the Board, and any other Bills of Interest to the Board introduced during the 2011-2012 Legislative Session.

REQUESTED BY: Louise Bailey, MEd, RN
Executive Officer

BACKGROUND:

Assembly Bills	**Senate Bills**
AB 30	SB 65
AB 40	SB 100

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
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(916) 574-7600

BOARD OF REGISTERED NURSING
ASSEMBLY BILLS
February 2, 2011

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
30	**Hayashi**	**Health Facilities: security plans**			**Introduced**
40	**Yamada**	**Elder abuse: reporting**			**Introduced**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
SENATE BILLS
February 2, 2011

BILL #	AUTHOR	SUBJECT	COMM POSITION	BOARD POSITION	BILL STATUS
65	**Strickland**	**Pupil health: prescription pancreatic enzymes**			**Introduced**
100	**Price**	**Healing Arts**			**Introduced**

Bold denotes a bill which was amended subsequent to the Board's position or is a new bill for Board consideration.

BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
February 2, 2011
BILL ANALYSIS

AUTHOR:	Hayashi	**BILL NUMBER:**	AB 30
SPONSOR:	Hayashi	**BILL STATUS:**	Introduced
SUBJECT:	Health Facilities: security plans	**DATE LAST AMENDED:**	12/6/10

SUMMARY:
Under existing law, the State Department of Public Health licenses and regulates hospitals, as defined. Violation of these provisions is a crime. Existing law requires hospitals, not less than annually, to conduct a security and safety assessment and, using the assessment, develop a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. Existing law provides that the plan may include, but is not limited to, prescribed considerations.

Under existing law, an act of assault that results in injury or involves the use of a firearm or other dangerous weapon against on-duty hospital personnel is required to be reported to law enforcement within 72 hours of the occurrence of the incident.

Under exiting law, the Corrections Standards Authority is required to establish minimum standards for state and local correctional facilities.

This bill would amend sections of the Health and Safety Coed and the Pena Code relating to health facilities.

ANALYSIS:
This bill would require a hospital, among other things, to include in its security plan as followings:

- Adopt specified security policies as part of the plan.
- Evaluate and treat an employee who is involved in a violent incident and provide specified follow-up care.
- Prohibit a hospital from prohibiting an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance from local emergency services or law enforcement when a violent incident occurs.
- Provide security education to all hospital employees regularly assigned to the emergency department or psychiatric unit, at least annually.
- Report incidents of assault or battery to the department and law enforcement within 24 hours

The bill would require the department to make an onsite inspection or investigation when it receives a report from a hospital that indicates an ongoing, urgent, or emergent threat of imminent danger of death or serious bodily harm to patient, personnel, or visitors, within 48 hours or 2 business days.

The bill would also require the Corrections Standards Authority to establish a standard that would include a safety and security plan designed to prevent and protect, from aggression and violence, health care personnel who provide care to persons confined in state and local correctional facilities, including, but not limited to, correctional treatment centers.

The bill would require the department to report to the Legislature, as specified, beginning on January 1, 2014, and annually thereafter until January 1, 2018, certain information regarding incidents of violence at hospitals.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 30

Introduced by Assembly Member Hayashi

December 6, 2010

An act to amend Sections 1257.7 and 1257.8 of the Health and Safety Code, and to amend Section 6030 of the Penal Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as introduced, Hayashi. Health facilities: security plans.

Under existing law, the State Department of Public Health licenses and regulates hospitals, as defined. Violation of these provisions is a crime. Existing law requires hospitals, not less than annually, to conduct a security and safety assessment and, using the assessment, develop a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. Existing law provides that the plan may include, but is not limited to, prescribed considerations.

This bill would, instead, require the plan to include these considerations, as well as other considerations prescribed by the bill. It would also require the hospital to adopt specified security policies as part of the plan. The bill would also require the hospital to evaluate and treat an employee who is involved in a violent incident and to provide specified followup care. The bill would prohibit a hospital from prohibiting an employee from, or taking punitive or retaliatory action against an employee for, seeking assistance from local emergency services or law enforcement when a violent incident occurs.

Under existing law, an act of assault that results in injury or involves the use of a firearm or other dangerous weapon against on-duty hospital

personnel is required to be reported to law enforcement within 72 hours of the occurrence of the incident.

This bill would, instead, require reporting to law enforcement within 24 hours.

This bill would also require a hospital to report incidents of assault or battery to the department, as specified. The bill would require the department to make an onsite inspection or investigation when it receives a report from a hospital that indicates an ongoing, urgent, or emergent threat of imminent danger of death or serious bodily harm to patient, personnel, or visitors.

The bill would require the department to report to the Legislature, as prescribed, beginning on January 1, 2014, and annually thereafter until January 1, 2018, certain information regarding incidents of violence at hospitals.

Under existing law, all hospital employees who are regularly assigned to the emergency department are required to receive, on a continuing basis as provided by the security plan, specified training.

This bill would require training to be provided annually, and would include in the required training hospital employees regularly assigned to a psychiatric unit.

This bill would allow the imposition of an administrative penalty for violation of the provisions relating to the safety plan. Because this bill expands the definition of a crime, it would impose a state-mandated local program.

Under existing law, the Corrections Standards Authority is required to establish minimum standards for state and local correctional facilities.

This bill would require the standards to include a safety and security plan to protect health care personnel who provide care to persons confined in state and local correctional facilities, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1257.7 of the Health and Safety Code is amended to read:

1257.7. (a) ~~After July 1, 2010, all~~ *All* hospitals licensed pursuant to subdivisions (a), (b), and (f) of Section 1250 shall conduct, not less than annually, a security and safety assessment and, using the assessment, develop, and annually update based on the assessment, a security plan with measures to protect personnel, patients, and visitors from aggressive or violent behavior. The security and safety assessment shall examine trends of aggressive or violent behavior at the facility. These hospitals shall track incidents of aggressive or violent behavior, *as well as the hospital's response to those incidents,* as part of the quality assessment and improvement program and for the purposes of developing a security plan to deter and manage further aggressive or violent acts of a similar nature. The plan ~~may~~ *shall* include, but shall not be limited to, security considerations relating to all of the following:

(1) Physical layout.

(2) Staffing, *including staffing patterns and patient classification systems that contribute to the risk of violence or are insufficient to address the risk of violence.*

(3) ~~Security~~ *The adequacy of facility security systems, protocols, and policies, including, but not limited to, security* personnel availability.

(4) Potential security risks associated with specific units or areas within the facility where there is a greater likelihood that a patient or other person may exhibit violent behavior.

(5) Uncontrolled public access to any part of the facility.

(6) Potential security risks related to working late-night or early morning hours.

(7) Employee security in areas surrounding the facility, including, but not limited to, employee parking areas.

(8) The use of a trained response team that can assist employees in violent situations.

~~(4)~~

(9) Policy and training related to appropriate responses to violent acts.

~~(5)~~

(10) Efforts to cooperate with local law enforcement regarding violent acts in the facility.

~~In~~

(b) In developing ~~this~~ *the* plan, *specified in subdivision (a)*, the hospital shall consider guidelines or standards on violence in health care facilities issued by the department, the Division of Occupational Safety and Health, and the federal Occupational Safety and Health Administration. As part of the security plan, a hospital shall adopt security policies, including, but not limited to, ~~personnel~~ *all of the following:*

(1) Personnel training policies designed to protect personnel, patients, and visitors from aggressive or violent behavior. ~~In~~, *including education on how to recognize the potential for violence, how and when to seek assistance to prevent or respond to violence, and how to report incidents of violence to the appropriate law enforcement officials.*

(2) A system for responding to incidents and situations involving violence or the risk of violence, including, but not limited to, procedures for rapid response by which an employee is provided with immediate assistance if the threat of violence against that employee appears to be imminent, or if a violent act has occurred or is occurring.

(3) A system for investigating violent incidents and situations involving violence or the risk of violence. When investigating these incidents, the employer shall interview any employee who was involved in the incident or situation.

(4) A system for reporting, monitoring, and record keeping of violent incidents and situations involving the risk of violence.

(5) A system for reporting incidents of violence to the department pursuant to subdivision (i).

(6) Modifications to job design, staffing, security, equipment, or facilities as determined necessary to prevent or address violence against hospital employees.

(c) In developing the plan and the assessment, the hospital shall consult with affected employees, including the recognized collective bargaining agent or agents, if any, and members of the hospital medical staff organized pursuant to Section 2282 of the Business and Professions Code. This consultation may occur through hospital committees.

~~(b)~~

(d) The individual or members of a hospital committee responsible for developing the security plan shall be familiar with all of the following:

(1) The role of security in hospital operations.

(2) Hospital organization.

(3) Protective measures, including alarms and access control.

(4) The handling of disturbed patients, visitors, and employees.

(5) Identification of aggressive and violent predicting factors.

(6) Hospital safety and emergency preparedness.

(7) The rudiments of documenting and reporting crimes, including, by way of example, not disturbing a crime scene.

~~(c)~~

(e) The hospital shall have sufficient personnel to provide security pursuant to the security plan developed pursuant to subdivision (a). Persons regularly assigned to provide security in a hospital setting shall be trained regarding the role of security in hospital operations, including the identification of aggressive and violent predicting factors and management of violent disturbances.

~~(d)~~

(f) Any act of assault, as defined in Section 240 of the Penal Code, or battery, as defined in Section 242 of the Penal Code, that results in injury or involves the use of a firearm or other dangerous weapon, against any on-duty hospital personnel shall be reported to the local law enforcement agency within ~~72~~ *24* hours of the incident. Any other act of assault, as defined in Section 240 of the Penal Code, or battery, as defined in Section 242 of the Penal Code, against any on-duty hospital personnel may be reported to the local law enforcement agency within 72 hours of the incident. No health facility or employee of a health facility who reports a known or suspected instance of assault or battery pursuant to this section shall be civilly or criminally liable for any report required by this section. No health facility or employee of a health facility who reports a known or suspected instance of assault or battery that is authorized, but not required, by this section, shall be civilly or criminally liable for the report authorized by this section unless it can be proven that a false report was made and the health facility or its employee knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any health facility or employee of a health facility who makes a report known to be false or with reckless disregard of the truth or falsity

of the report shall be liable for any damages caused. Any individual knowingly interfering with or obstructing the lawful reporting process shall be guilty of a misdemeanor. "Dangerous weapon," as used in this section, means any weapon the possession or concealed carrying of which is prohibited by any provision listed in Section 16590 of the Penal Code.

(g) Each hospital shall provide evaluation and treatment for an employee who is injured or is otherwise a victim of a violent incident and shall, upon the request of the employee, provide access to followup counseling to address trauma or distress experienced by the employee, including, but not limited to, individual crisis counseling, support group counseling, peer assistance, and professional referrals.

(h) A hospital shall not prohibit an employee from, or take punitive or retaliatory action against an employee for, seeking assistance and intervention from local emergency services or law enforcement when a violent incident occurs, or from filing a police report or criminal charges against the individual who committed the violence.

(i) (1) A hospital shall report to the department any incident of assault, as defined in Section 240 of the Penal Code, or battery, as defined in Section 242 of the Penal Code, against a hospital employee or patient that is committed by a patient or a person accompanying a patient. This report shall include the date and time of the incident, whether the victim was a hospital employee or a patient, the unit in which the incident occurred, a description of the circumstances surrounding the incident, and the hospital's response to the incident.

(2) (A) Except as provided in subparagraph (B), a hospital shall report an incident to which paragraph (1) applies to the department within 72 hours.

(B) A hospital shall report to the department within 24 hours any incident to which paragraph (1) applies that results in injury, involves the use of a firearm or other dangerous weapon, or presents an urgent or emergent threat to the welfare, health, or safety of patients, personnel, or visitors.

(j) The department shall make an onsite inspection or investigation within 48 hours, or two business days, whichever is greater, of the receipt of a report from a hospital pursuant to subdivision (i) that indicates an ongoing, urgent, or emergent

threat of imminent danger of death or serious bodily harm to patients, personnel, or visitors.

(k) The department may assess an administrative penalty against a hospital for violation of this section or Section 1257.8. Pursuant to Section 1280.1, an additional administrative penalty may be assessed for a violation of this section or Section 1257.8 that results in immediate jeopardy to the health or safety of a patient.

(l) (1) Beginning on January 1, 2014, and annually thereafter, the department shall report to the relevant fiscal and policy committees of the Legislature information, in a manner that protects patient and employee confidentiality, regarding incidents of violence at hospitals, that includes, but is not limited to, the total number of reports and what specific hospitals filed reports pursuant to subdivision (i), the outcome of any inspection or investigation initiated pursuant to subdivision (j), the amount of any administrative penalty levied against a hospital pursuant to subdivision (k), and recommendations on how to prevent incidents of violence at hospitals.

(2) The requirement for submitting a report imposed pursuant to this subdivision is inoperative on January 1, 2018, pursuant to Section 10231.5 of the Government Code.

(3) A report to be submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

SEC. 2. Section 1257.8 of the Health and Safety Code is amended to read:

1257.8. (a) All hospital employees regularly assigned to the emergency department *or psychiatric unit* shall *at least annually* receive~~, by July 1, 1995, and thereafter, on a continuing basis as provided for in the security plan developed pursuant to Section 1257.7,~~ security education and training relating to the following topics:

(1) General safety measures.

(2) Personal safety measures.

(3) The assault cycle.

(4) Aggression and violence predicting factors.

(5) Obtaining patient history from a patient with violent behavior.

(6) Characteristics of aggressive and violent patients and victims.

(7) Verbal and physical maneuvers to diffuse and avoid violent behavior.

(8) Strategies to avoid physical harm.

(9) Restraining techniques.

(10) Appropriate use of medications as chemical restraints.

(11) Any resources available to employees for coping with incidents of violence, including, by way of example, critical incident stress debriefing or employee assistance programs.

(b) As provided in the security plan developed pursuant to *subdivision (a) of* Section 1257.7, members of the medical staff of each hospital and all other practitioners, including, but not limited to, nurse practitioners, physician assistants, and other personnel, who are regularly assigned to the emergency ~~department~~ *department, psychiatric units,* or other departments identified in the security plan shall receive the same training as that provided to hospital employees or, at a minimum, training determined to be sufficient pursuant to the security plan.

(c) Temporary personnel shall be oriented as required pursuant to the security plan. This section shall not be construed to preempt state law or regulations generally affecting temporary personnel in hospitals.

SEC. 3. Section 6030 of the Penal Code is amended to read:

6030. (a) The Corrections Standards Authority shall establish minimum standards for state and local correctional facilities. The standards for state correctional facilities shall be established by January 1, 2007. The authority shall review those standards biennially and make any appropriate revisions.

(b) The standards shall include, but not be limited to, the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in state and local correctional facilities, and personnel training.

(c) The standards shall require that at least one person on duty at the facility is knowledgeable in the area of fire and life safety procedures.

(d) The standards shall also include requirements relating to the acquisition, storage, labeling, packaging, and dispensing of drugs.

(e) The standards shall include requirements for a safety and security plan designed to prevent and protect, from aggression and violence, health care personnel who provide care to persons

confined in state and local correctional facilities, including, but not limited to, correctional treatment centers licensed pursuant to subdivision (j) of Section 1250 of the Health and Safety Code. The safety and security plan shall include, but not be limited to, security considerations of all of the following:

(1) Physical layout, including, but not limited to, the physical layout of intake areas.

(2) Security, placement, and storage of equipment, supplies, or other items that may be used in a manner that would pose a risk to the physical safety of health care personnel.

(3) Staffing, including, but not limited to, the adequacy of health care personnel staffing during the processing and intake of detainees.

(4) The adequacy of facility security systems, protocols, and policies, including, but not limited to, the availability of security personnel during the provision of health care services to detainees by health care personnel.

(5) Training for health care personnel, including, but not limited to, education on how to recognize the potential for violence, and how and when to seek assistance to prevent or respond to violence.

~~(e)~~

(f) The standards shall require that inmates who are received by the facility while they are pregnant are provided all of the following:

(1) A balanced, nutritious diet approved by a doctor.

(2) Prenatal and postpartum information and health care, including, but not limited to, access to necessary vitamins as recommended by a doctor.

(3) Information pertaining to childbirth education and infant care.

(4) A dental cleaning while in a state facility.

~~(f)~~

(g) The standards shall provide that at no time shall a woman who is in labor be shackled by the wrists, ankles, or both including during transport to a hospital, during delivery, and while in recovery after giving birth, except as provided in Section 5007.7.

~~(g)~~

(h) In establishing minimum standards, the authority shall seek the advice of the following:

(1) For health and sanitary conditions:

The ~~State Department of Health Services~~ *State Department of Public Health*, physicians, psychiatrists, local public health officials, and other interested persons.

(2) For fire and life safety:

The State Fire Marshal, local fire officials, and other interested persons.

(3) For security, rehabilitation programs, recreation, and treatment of persons confined in correctional facilities:

The Department of Corrections and Rehabilitation, state and local juvenile justice commissions, state and local correctional officials, experts in criminology and penology, and other interested persons.

(4) For personnel training:

The Commission on Peace Officer Standards and Training, psychiatrists, experts in criminology and penology, the Department of Corrections and Rehabilitation, state and local correctional officials, and other interested persons.

(5) For female inmates and pregnant inmates in local adult and juvenile facilities:

The California State Sheriffs' Association and Chief Probation Officers' Association of California, and other interested persons.

(6) For safety and security plans for health care personnel:

The State Department of Public Health, the Division of Occupational Safety and Health, registered nurses, other relevant health care personnel, and other interested persons.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
February 2, 2011
BILL ANALYSIS

AUTHOR:	Yamada	**BILL NUMBER:**	AB 40
SPONSOR:	Yamada	**BILL STATUS:**	Introduced
SUBJECT:	Elder abuse: reporting	**DATE LAST AMENDED:**	12/6/10

SUMMARY:
The Elder Abuse and Dependent Adult Civil Protection Act establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. The act requires certain persons, called mandated reporters, to report known or suspected instances of elder or dependent adult abuse. The act requires a mandated reporter to report the abuse to the local ombudsperson or the local law enforcement agency if the abuse occurs in a long-term care facility. Failure to report physical abuse and financial abuse of an elder or dependent adult under the act is a misdemeanor.

This bill would amend sections of the Welfare and Institutions Code, relating to elder abuse.

ANALYSIS:
This bill would require the mandated reporter to report elder or dependent adult abuse to both the local ombudsperson **and** the local law enforcement agency when the abuse occurs in a long-term facility. This bill would also make various technical, nonsubstantive changes.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

ASSEMBLY BILL No. 40

Introduced by Assembly Member Yamada

December 6, 2010

An act to amend Section 15630 of the Welfare and Institutions Code, relating to elder abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 40, as introduced, Yamada. Elder abuse: reporting.

The Elder Abuse and Dependent Adult Civil Protection Act establishes various procedures for the reporting, investigation, and prosecution of elder and dependent adult abuse. The act requires certain persons, called mandated reporters, to report known or suspected instances of elder or dependent adult abuse. The act requires a mandated reporter to report the abuse to the local ombudsperson or the local law enforcement agency if the abuse occurs in a long-term care facility. Failure to report physical abuse and financial abuse of an elder or dependent adult under the act is a misdemeanor.

This bill would, instead, require the mandated reporter to report the abuse to both the local ombudsperson and the local law enforcement agency. This bill would also make various technical, nonsubstantive changes.

By changing the scope of an existing crime, this bill would impose a state-mandated local program. By increasing the duties of local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report sent within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to *both* the local ombudsperson ~~or~~ *and* the local law enforcement agency.

The local ombudsperson and the local law enforcement agency shall, as soon as practicable, except in the case of an emergency or pursuant to a report required to be made pursuant to clause (v), in which case these actions shall be taken immediately, do all of the following:

(i) Report to the State Department of Public Health any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Public Health and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(v) Report all cases of known or suspected physical abuse and financial abuse to the local district attorney's office in the county where the abuse occurred.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession

made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) ~~Nothing in this~~ *This* subdivision shall *not* be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse ~~when~~ *if* he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective services agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident ~~where~~ *if* all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected

incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident ~~where~~ *if* all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Public Health determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsperson, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsperson program. Except in an emergency, the local ombudsperson shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be

made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) ~~When~~ *If* two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and ~~when~~ there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63 ~~of the Welfare and Institutions Code~~, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, ~~where~~ *if* that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars ($5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 ~~of the Welfare and Institutions Code~~ discovers the offense.

(i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
February 2, 2011
BILL ANALYSIS

AUTHOR:	Strickland	**BILL NUMBER:**	SB 65
SPONSOR:	Strickland	**BILL STATUS:**	Introduced
SUBJECT:	Pupil health: prescription pancreatic enzymes	**DATE LAST AMENDED:**	1/6/11

SUMMARY:
Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

Existing law also provides that any pupil who is required to take, during the regular school day, medication prescribed for him or her by a physician or surgeon may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription auto-injectable epinephrine or inhaled asthma medication, under specified conditions, if the school district receives the appropriate written statements, as prescribed, from the physician or surgeon and the parent, foster parent, or guardian of the pupil.

Existing regulations of the State Department of Education specify procedures to be followed in the administration of medication to a pupil.

This bill would add a section to the Education Code, relating to pupil health.

ANALYSIS:
This bill would provide that any pupil who has been diagnosed with cystic fibrosis and is required to take, during the regular school day, medication prescribed for him or her by a physician, may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription pancreatic enzymes, if the school district receives the appropriate written statements, as prescribed, from the physician and the parent, foster parent, or guardian of the pupil.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL No. 65

Introduced by Senator Strickland

January 6, 2011

An act to add Section 49423.3 to the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as introduced, Strickland. Pupil health: prescription pancreatic enzymes.

Existing law establishes the public elementary and secondary school system in this state. Under this system, school districts throughout the state provide instruction to pupils in kindergarten and grades 1 to 12, inclusive, at the public elementary and secondary schools.

Existing law provides that any pupil who is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription auto-injectable epinephrine or inhaled asthma medication, under specified conditions, if the school district receives the appropriate written statements, as prescribed, from the physician or surgeon and the parent, foster parent, or guardian of the pupil. Existing regulations of the State Department of Education specify procedures to be followed in the administration of medication to a pupil.

This bill would further provide that any pupil who has been diagnosed with cystic fibrosis and is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription pancreatic enzymes if the school district receives the appropriate written statements, as prescribed,

from the physician or surgeon and the parent, foster parent, or guardian of the pupil.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 49423.3 is added to the Education Code, to read:

49423.3. (a) Notwithstanding Section 49422, any pupil who has been diagnosed with cystic fibrosis and is required to take, during the regular schoolday, medication prescribed for him or her by a physician or surgeon, may be assisted by the school nurse or other designated school personnel or may carry and self-administer prescription pancreatic enzymes if the school district receives the appropriate written statements identified in subdivision (b).

(b) (1) In order for a pupil to be assisted by a school nurse or other designated school personnel in the administration of medication pursuant to subdivision (a), the school district shall obtain both a written statement from the physician or surgeon detailing the name of the medication, the method by which the medication is to be taken, and the amount of the medication to be taken, and a written statement from the parent, foster parent, or guardian of the pupil indicating the desire that the school district assist the pupil in the matters set forth in the statement of the physician or surgeon.

(2) In order for a pupil to carry and self-administer prescription pancreatic enzymes pursuant to subdivision (a), the school district shall obtain both a written statement from the physician or surgeon detailing the name of the medication, the method by which the medication is to be taken, and the amount of medication to be taken, and confirming that the pupil is able to self-administer prescription pancreatic enzymes just before a meal or snack, and a written statement from the parent, foster parent, or guardian of the pupil consenting to the self-administration, providing a release for the school nurse or other designated school personnel to consult with the health care provider of the pupil regarding any questions that may arise with regard to the medication, and releasing the school district and school personnel from civil liability if the

self-administering pupil suffers an adverse reaction as a result of self-administering medication pursuant to this paragraph.

(3) The written statements specified in this subdivision shall be provided at least annually and more frequently if the medication, dosage, frequency of administration, or reason for administration changes.

(c) A pupil may be subject to disciplinary action pursuant to Section 48900 if that pupil uses pancreatic enzymes in a manner other than as prescribed.

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BOARD OF REGISTERED NURSING
LEGISLATIVE COMMITTEE
February 2, 2011
BILL ANALYSIS

AUTHOR:	Price	**BILL NUMBER:**	SB 100
SPONSOR:	Price	**BILL STATUS:**	Introduced
SUBJECT:	Healing Arts	**DATE LAST AMENDED:**	1/11/11

SUMMARY:

Existing law provides for the licensure and regulation of various healing arts practitioners and requires certain of those practitioners to use particular designations following their names in specified instances. Existing law also provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which they are licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor.

Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would add and amend sections of the Business and Professions Code and the Health and Safety Code, relating to healing arts.

ANALYSIS:

This bill would, among other things, require licensees of the Board to include as advertisements, certain words or designations following their names indicating the particular educational degree they hold or healing arts they practice. It would require a registered nurse to include the designation "RN" immediately following his or her name.

Additionally, this bill would require the Medical Board of California to adopt regulations by January 1, 2013, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures. However, the regulations **would not** apply to laser or intense pulse light devices approved by the Federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

BOARD POSITION:

LEGISLATIVE COMMITTEE RECOMMENDED POSITION:

SUPPORT:

OPPOSE:

SENATE BILL **No. 100**

Introduced by Senator Price

January 11, 2011

An act to amend Sections 651 and 2023.5 of, and to add Section 2027.5 to, the Business and Professions Code, and to amend Sections 1204, 1248, 1248.15, 1248.2, 1248.25, 1248.35, 1248.5, 1248.55, and 1279 of, and to add Sections 1204.6, 1204.7, and 1204.8 to, the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 100, as introduced, Price. Healing arts.

(1) Existing law provides for the licensure and regulation of various healing arts practitioners and requires certain of those practitioners to use particular designations following their names in specified instances. Existing law provides that it is unlawful for healing arts licensees to disseminate or cause to be disseminated any form of public communication, as defined, containing a false, fraudulent, misleading, or deceptive statement, claim, or image to induce the rendering of services or the furnishing of products relating to a professional practice or business for which they are licensed. Existing law authorizes advertising by these healing arts licensees to include certain general information. A violation of these provisions is a misdemeanor.

This bill would require certain healing arts licensees to include in advertisements, as defined, certain words or designations following their names indicating the particular educational degree they hold or healing art they practice, as specified. By changing the definition of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the Medical Board of California, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field,

to review issues and problems relating to the use of laser or intense light pulse devices for elective cosmetic procedures by their respective licensees.

This bill would require the board to adopt regulations by January 1, 2013, regarding the appropriate level of physician availability needed within clinics or other settings using certain laser or intense pulse light devices for elective cosmetic procedures.

(3) Existing law requires the Medical Board of California to post on the Internet specified information regarding licensed physicians and surgeons.

This bill would require the board to post on its Internet Web site an easy-to-understand factsheet to educate the public about cosmetic surgery and procedures, as specified.

(4) Under existing law, the State Department of Public Health licenses and regulates clinics, including surgical clinics, as defined.

This bill would expand the definition of surgical clinics to include a surgical clinic owned in whole or in part by a physician and would require, until the department promulgates regulations for the licensing of surgical clinics, the department to use specified federal conditions of coverage.

(5) Existing law requires the Medical Board of California, as successor to the Division of Licensing of the Medical Board of California, to adopt standards for accreditation of outpatient settings, as defined, and, in approving accreditation agencies to perform this accreditation, to ensure that the certification program shall, at a minimum, include standards for specified aspects of the settings' operations. Existing law makes a willful violation of these and other provisions relating to outpatient settings a crime.

This bill would include, among those specified aspects, the submission for approval by an accreditation agency at the time of accreditation, a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery. The bill would also modify the definition of "outpatient setting" to include facilities that offer in vitro fertilization, as defined. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law also requires the Medical Board of California to obtain and maintain a list of all accredited, certified, and licensed outpatient settings, and to notify the public, upon inquiry, whether a setting is

accredited, certified, or licensed, or whether the setting's accreditation, certification, or license has been revoked.

This bill would require the board, absent inquiry, to notify the public whether a setting is accredited, certified, or licensed, or the setting's accreditation, certification, or license has been revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency. The bill would also require the board to give the department notice of all accredited, certified, and licensed outpatient settings and to notify the department of accreditation standards, changes in the accreditation of an outpatient setting, or any disciplinary actions and corrective actions.

Existing law requires accreditation of an outpatient setting to be denied if the setting does not meet specified standards. Existing law authorizes an outpatient setting to reapply for accreditation at any time after receiving notification of the denial.

This bill would require the accreditation agency to immediately report to the Medical Board of California if the outpatient setting's certificate for accreditation has been denied. Because a willful violation of this requirement would be a crime, the bill would impose a state-mandated local program. The bill would also apply the denial of accreditation, or the revocation or suspension of accreditation by one accrediting agency to all other accrediting agencies.

Existing law authorizes the Medical Board of California, as successor to the Division of Medical Quality of the Medical Board of California, or an accreditation agency to, upon reasonable prior notice and presentation of proper identification, enter and inspect any accredited outpatient setting to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of the specified law.

This bill would delete the notice and identification requirements. The bill would require that every outpatient setting that is accredited be inspected by the accreditation agency, as specified, and would specify that it may also be inspected by the board and the department, as specified. The bill would require the board to ensure that accreditation agencies inspect outpatient settings.

Existing law authorizes the Medical Board of California to terminate approval of an accreditation agency if the agency is not meeting the criteria set by the board.

This bill would also authorize the board to issue a citation to the agency, including an administrative fine, in accordance with a specified system established by the board.

Existing law authorizes the Medical Board of California to evaluate the performance of an approved accreditation agency no less than every 3 years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the board.

This bill would make that evaluation mandatory.

(5) Existing law provides for the licensure and regulation of health facilities by the State Department of Public Health and requires the department to periodically inspect those facilities, as specified.

This bill would state the intent of the Legislature that the department, as part of its periodic inspections of acute care hospitals, inspect the peer review process utilized by those hospitals.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) It is the intent of the Legislature to clarify Capen v. Shewry (2007) 147 Cal.App.4th 680 and give surgical clinics that are owned in whole or in part by physicians the option to be licensed by the State Department of Public Health. It is further the intent of the Legislature that this clarification shall not be construed to permit the practice of medicine in prohibition of the corporate practice of medicine pursuant to Section 2400 of the Business and Professions Code.

(b) It is the further intent of the Legislature to continue to give physicians and surgeons the option to obtain licensure from the State Department of Public Health if they are operating surgical clinics, or an accreditation through an accrediting agency approved by the Medical Board of California pursuant to Chapter 1.3

(commencing with Section 1248) of Division 2 of the Health and Safety Code.

(c) It is the further intent of the Legislature, in order to ensure patient protection, to provide appropriate oversight by the State Department of Public Health, and to allow corrective action to be taken against an outpatient setting if there is reason to believe that there may be risk to patient safety, health, or welfare, that an outpatient setting shall be deemed licensed by the State Department of Public Health.

SEC. 2. Section 651 of the Business and Professions Code is amended to read:

651. (a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure

being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional

services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a

diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he

or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or

association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical

Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) (1) Advertising by the following licensees shall include the designations as follows:

(A) Advertising by a chiropractor licensed under Chapter 2 (commencing with Section 1000) shall include the designation "DC" or the word "chiropractor" immediately following the chiropractor's name.

(B) Advertising by a dentist licensed under Chapter 4 (commencing with Section 1600) shall include the designation "DDS" or "DMD" immediately following the dentist's name.

(C) Advertising by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) shall include the designation "MD" immediately following the physician and surgeon's name.

(D) Advertising by an osteopathic physician and surgeon certified under Article 21 (commencing with Section 2450) shall include the designation "DO" immediately following the osteopathic physician and surgeon's name.

(E) Advertising by a podiatrist certified under Article 22 (commencing with Section 2460) of Chapter 5 shall include the designation "DPM" immediately following the podiatrist's name.

(F) Advertising by a registered nurse licensed under Chapter 6 (commencing with Section 2700) shall include the designation "RN" immediately following the registered nurse's name.

(G) Advertising by a licensed vocational nurse under Chapter 6.5 (commencing with Section 2840) shall include the designation "LVN" immediately following the licensed vocational nurse's name.

(H) Advertising by a psychologist licensed under Chapter 6.6 (commencing with Section 2900) shall include the designation "Ph.D." immediately following the psychologist's name.

(I) Advertising by an optometrist licensed under Chapter 7 (commencing with Section 3000) shall include the applicable designation or word described in Section 3098 immediately following the optometrist's name.

(J) Advertising by a physician assistant licensed under Chapter 7.7 (commencing with Section 3500) shall include the designation "PA" immediately following the physician assistant's name.

(K) Advertising by a naturopathic doctor licensed under Chapter 8.2 (commencing with Section 3610) shall include the designation "ND" immediately following the naturopathic doctor's name. However, if the naturopathic doctor uses the term or designation

"Dr." in an advertisement, he or she shall further identify himself by any of the terms listed in Section 3661.

(2) For purposes of this subdivision, "advertisement" includes communication by means of mail, television, radio, motion picture, newspaper, book, directory, Internet, or other electronic communication.

(3) Advertisements do not include any of the following:

(A) A medical directory released by a health care service plan or a health insurer.

(B) A billing statement from a health care practitioner to a patient.

(C) An appointment reminder from a health care practitioner to a patient.

(4) This subdivision shall not apply until January 1, 2013, to any advertisement that is published annually and prior to July 1, 2012.

(5) This subdivision shall not apply to any advertisement or business card disseminated by a health care service plan that is subject to the requirements of Section 1367.26 of the Health and Safety Code.

~~(i)~~

(j) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not,

by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

~~(j)~~

(k) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

~~(k)~~

(l) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars ($10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

SEC. 3. Section 2023.5 of the Business and Professions Code is amended to read:

2023.5. (a) The board, in conjunction with the Board of Registered Nursing, and in consultation with the Physician Assistant Committee and professionals in the field, shall review issues and problems surrounding the use of laser or intense light pulse devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants. The review shall include, but need not be limited to, all of the following:

(1) The appropriate level of physician supervision needed.

(2) The appropriate level of training to ensure competency.

(3) Guidelines for standardized procedures and protocols that address, at a minimum, all of the following:

(A) Patient selection.

(B) Patient education, instruction, and informed consent.

(C) Use of topical agents.

(D) Procedures to be followed in the event of complications or side effects from the treatment.

(E) Procedures governing emergency and urgent care situations.

(b) On or before January 1, 2009, the board and the Board of Registered Nursing shall promulgate regulations to implement changes determined to be necessary with regard to the use of laser or intense pulse light devices for elective cosmetic procedures by physicians and surgeons, nurses, and physician assistants.

(c) On or before January 1, 2013, the board shall adopt regulations regarding the appropriate level of physician availability needed within clinics or other settings using laser or intense pulse light devices for elective cosmetic procedures. However, these regulations shall not apply to laser or intense pulse light devices approved by the federal Food and Drug Administration for over-the-counter use by a health care practitioner or by an unlicensed person on himself or herself.

(d) Nothing in this section shall be construed to modify the prohibition against the unlicensed practice of medicine.

SEC. 4. Section 2027.5 is added to the Business and Professions Code, to read:

2027.5. The board shall post on its Internet Web site an easy-to-understand factsheet to educate the public about cosmetic surgery and procedures, including their risks. Included with the factsheet shall be a comprehensive list of questions for patients to ask their physician and surgeon regarding cosmetic surgery.

SEC. 5. Section 1204 of the Health and Safety Code is amended to read:

1204. Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a) (1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods,

or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain

less than 24 hours, *including a surgical clinic that is owned in whole or in part by a physician.* A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

SEC. 6. Section 1204.6 is added to the Health and Safety Code, to read:

1204.6. Until the department promulgates regulations for the licensing of surgical clinics, the department shall use the federal conditions of coverage, as set forth in Subpart C of Part 416 of Title 42 of the Code of Federal Regulations, as those conditions existed on May 18, 2009, as the basis for licensure for facilities licensed pursuant to paragraph (1) of subdivision (b) of Section 1204.

SEC. 7. Section 1204.7 is added to the Health and Safety Code, to read:

1204.7. (a) An outpatient setting, as defined in subdivision (a) of Section 1248, that is accredited by an accrediting agency approved by the Medical Board of California, shall be deemed licensed by the department and shall be required to pay an annual licensing fee as established pursuant to Section 1266.

(b) The department shall have only that authority over outpatient settings specified in Chapter 3.1 (commencing with Section 1248).

(c) The department shall notify the Medical Board of California of any action taken against an outpatient setting and, if licensure of an outpatient setting is revoked or suspended by the department for any reason, then accreditation shall be void by operation of law. Notwithstanding Sections 1241 and 131071, proceedings shall not be required to void the accreditation of an outpatient setting under these circumstances.

SEC. 8. Section 1204.8 is added to the Health and Safety Code, to read:

1204.8. A clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204 or an outpatient setting, as defined in Section 1248, shall be subject to the reporting requirements in Section 1279.1 and the penalties for failure to report specified in Section 1280.4.

SEC. 9. Section 1248 of the Health and Safety Code is amended to read:

1248. For purposes of this chapter, the following definitions shall apply:

(a) "Division" means the *Medical Board of California. All references in this chapter to the division, the* Division of Licensing of the Medical Board of ~~California.~~ *California, or the Division of Medical Quality shall be deemed to refer to the Medical Board of California pursuant to Section 2002 of the Business and Professions Code.*

~~(b) "Division of Medical Quality" means the Division of Medical Quality of the Medical Board of California.~~

~~(c)~~

(b) (1) "Outpatient setting" means any facility, clinic, unlicensed clinic, center, office, or other setting that is not part of a general acute care facility, as defined in Section 1250, and where anesthesia, except local anesthesia or peripheral nerve blocks, or both, is used in compliance with the community standard of practice, in doses that, when administered have the probability of placing a patient at risk for loss of the patient's life-preserving protective reflexes.

(2) "Outpatient setting" also means facilities that offer in vitro fertilization, as defined in subdivision (b) of Section 1374.55.

(3) "Outpatient setting" does not include, among other settings, any setting where anxiolytics and analgesics are administered, when done so in compliance with the community standard of

practice, in doses that do not have the probability of placing the patient at risk for loss of the patient's life-preserving protective reflexes.

~~(d)~~

(c) "Accreditation agency" means a public or private organization that is approved to issue certificates of accreditation to outpatient settings by the ~~division~~ *board* pursuant to Sections 1248.15 and 1248.4.

SEC. 10. Section 1248.15 of the Health and Safety Code is amended to read:

1248.15. (a) The ~~division~~ *board* shall adopt standards for accreditation and, in approving accreditation agencies to perform accreditation of outpatient settings, shall ensure that the certification program shall, at a minimum, include standards for the following aspects of the settings' operations:

(1) Outpatient setting allied health staff shall be licensed or certified to the extent required by state or federal law.

(2) (A) Outpatient settings shall have a system for facility safety and emergency training requirements.

(B) There shall be onsite equipment, medication, and trained personnel to facilitate handling of services sought or provided and to facilitate handling of any medical emergency that may arise in connection with services sought or provided.

(C) In order for procedures to be performed in an outpatient setting as defined in Section 1248, the outpatient setting shall do one of the following:

(i) Have a written transfer agreement with a local accredited or licensed acute care hospital, approved by the facility's medical staff.

(ii) Permit surgery only by a licensee who has admitting privileges at a local accredited or licensed acute care hospital, with the exception that licensees who may be precluded from having admitting privileges by their professional classification or other administrative limitations, shall have a written transfer agreement with licensees who have admitting privileges at local accredited or licensed acute care hospitals.

~~(iii) Submit~~

(D) The outpatient setting shall submit for approval by an accrediting agency a detailed procedural plan for handling medical

emergencies that shall be reviewed at the time of accreditation. No reasonable plan shall be disapproved by the accrediting agency.

(E) The outpatient setting shall submit for approval by an accreditation agency at the time accreditation of a detailed plan, standardized procedures, and protocols to be followed in the event of serious complications or side effects from surgery that would place a patient at high risk for injury or harm or to govern emergency and urgent care situations.

~~(D)~~

(F) All physicians and surgeons transferring patients from an outpatient setting shall agree to cooperate with the medical staff peer review process on the transferred case, the results of which shall be referred back to the outpatient setting, if deemed appropriate by the medical staff peer review committee. If the medical staff of the acute care facility determines that inappropriate care was delivered at the outpatient setting, the acute care facility's peer review outcome shall be reported, as appropriate, to the accrediting body, the Health Care Financing Administration, the State Department of ~~Health Services,~~ *Public Health,* and the appropriate licensing authority.

(3) The outpatient setting shall permit surgery by a dentist acting within his or her scope of practice under Chapter 4 (commencing with Section 1600) of *Division 2 of* the Business and Professions Code or physician and surgeon, osteopathic physician and surgeon, or podiatrist acting within his or her scope of practice under Chapter 5 (commencing with Section 2000) of *Division 2 of* the Business and Professions Code or the Osteopathic Initiative Act. The outpatient setting may, in its discretion, permit anesthesia service by a certified registered nurse anesthetist acting within his or her scope of practice under Article 7 (commencing with Section 2825) of Chapter 6 of *Division 2 of* the Business and Professions Code.

(4) Outpatient settings shall have a system for maintaining clinical records.

(5) Outpatient settings shall have a system for patient care and monitoring procedures.

(6) (A) Outpatient settings shall have a system for quality assessment and improvement.

(B) Members of the medical staff and other practitioners who are granted clinical privileges shall be professionally qualified and

appropriately credentialed for the performance of privileges granted. The outpatient setting shall grant privileges in accordance with recommendations from qualified health professionals, and credentialing standards established by the outpatient setting.

(C) Clinical privileges shall be periodically reappraised by the outpatient setting. The scope of procedures performed in the outpatient setting shall be periodically reviewed and amended as appropriate.

(7) Outpatient settings regulated by this chapter that have multiple service locations governed by the same standards may elect to have all service sites surveyed on any accreditation survey. Organizations that do not elect to have all sites surveyed shall have a sample, not to exceed 20 percent of all service sites, surveyed. The actual sample size shall be determined by the ~~division.~~ *board.* The accreditation agency shall determine the location of the sites to be surveyed. Outpatient settings that have five or fewer sites shall have at least one site surveyed. When an organization that elects to have a sample of sites surveyed is approved for accreditation, all of the organizations' sites shall be automatically accredited.

(8) Outpatient settings shall post the certificate of accreditation in a location readily visible to patients and staff.

(9) Outpatient settings shall post the name and telephone number of the accrediting agency with instructions on the submission of complaints in a location readily visible to patients and staff.

(10) Outpatient settings shall have a written discharge criteria.

(b) Outpatient settings shall have a minimum of two staff persons on the premises, one of whom shall either be a licensed physician and surgeon or a licensed health care professional with current certification in advanced cardiac life support (ACLS), as long as a patient is present who has not been discharged from supervised care. Transfer to an unlicensed setting of a patient who does not meet the discharge criteria adopted pursuant to paragraph (10) of subdivision (a) shall constitute unprofessional conduct.

(c) An accreditation agency may include additional standards in its determination to accredit outpatient settings if these are approved by the ~~division~~ *board* to protect the public health and safety.

(d) No accreditation standard adopted or approved by the ~~division,~~ *board,* and no standard included in any certification

program of any accreditation agency approved by the ~~division,~~ *board,* shall serve to limit the ability of any allied health care practitioner to provide services within his or her full scope of practice. Notwithstanding this or any other provision of law, each outpatient setting may limit the privileges, or determine the privileges, within the appropriate scope of practice, that will be afforded to physicians and allied health care practitioners who practice at the facility, in accordance with credentialing standards established by the outpatient setting in compliance with this chapter. Privileges may not be arbitrarily restricted based on category of licensure.

(e) The board shall adopt standards that it deems necessary for outpatient settings that offer in vitro fertilization.

SEC. 11. Section 1248.2 of the Health and Safety Code is amended to read:

1248.2. (a) Any outpatient setting may apply to an accreditation agency for a certificate of accreditation. Accreditation shall be issued by the accreditation agency solely on the basis of compliance with its standards as approved by the ~~division~~ *board* under this chapter.

(b) The board shall submit to the State Department of Public Health the information required pursuant to paragraph (3) of subdivision (d) within 10 days of the accreditation of an outpatient setting.

~~(b)~~

(c) The ~~division~~ *board* shall obtain and maintain a list of all accredited, certified, and licensed outpatient settings from the information provided by the accreditation, certification, and licensing agencies approved by the ~~division,~~ *board,* and shall notify the ~~public, upon inquiry,~~ *public* whether a setting is accredited, certified, or licensed, or ~~whether~~ the setting's accreditation, certification, or license has been ~~revoked.~~ *revoked, suspended, or placed on probation, or the setting has received a reprimand by the accreditation agency. The board shall provide notice to the department within 10 days when an outpatient setting's accreditation has been revoked, suspended, or placed on probation. The department shall notify the board within 10 days if the license of a surgical clinic, as defined in paragraph (1) of subdivision (b) of Section 1204, has been revoked.*

(d) (1) The board shall, on or before February 1, 2012, provide the department with a list of all outpatient settings that are accredited as of January 1, 2012.

(2) Beginning April 1, 2012, the board shall provide the department with an updated list of outpatient settings every three months.

(3) The list of outpatient settings shall include all of the following:

(A) Name, address, and telephone number of the owner.

(B) Name and address of the facility.

(C) The name and telephone number of the accreditation agency.

(D) The effective and expiration dates of the accreditation.

(e) The board shall provide the department with all accreditation standards approved by the board, free of charge. Accreditation standards provided to the department by the board shall not be subject to public disclosure provisions of the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 12. Section 1248.25 of the Health and Safety Code is amended to read:

1248.25. If an outpatient setting does not meet the standards approved by the ~~division,~~ *board,* accreditation shall be denied by the accreditation agency, which shall provide the outpatient setting notification of the reasons for the denial. An outpatient setting may reapply for accreditation at any time after receiving notification of the denial. *The accreditation agency shall immediately report to the board if the outpatient setting's certificate for accreditation has been denied.*

SEC. 13. Section 1248.35 of the Health and Safety Code is amended to read:

1248.35. *(a) Every outpatient setting which is accredited shall be inspected by the accreditation agency and may also be inspected by the Medical Board of California. The Medical Board of California shall ensure that accreditation agencies inspect outpatient settings.*

(b) Unless otherwise specified, the following requirements apply to inspections described in subdivision (a).

(1) The frequency of inspection shall depend upon the type and complexity of the outpatient setting to be inspected.

(2) Inspections shall be conducted no less often than once every three years by the accreditation agency and as often as necessary by the Medical Board of California to ensure the quality of care provided.

~~(a)~~

(3) The ~~Division of~~ Medical ~~Quality~~ *Board of California* or ~~an~~ *the* accreditation agency ~~may, upon reasonable prior notice and presentation of proper identification,~~ *may* enter and inspect any outpatient setting that is accredited by an accreditation agency at any reasonable time to ensure compliance with, or investigate an alleged violation of, any standard of the accreditation agency or any provision of this chapter.

~~(b)~~

(c) If an accreditation agency determines, as a result of its inspection, that an outpatient setting is not in compliance with the standards under which it was approved, the accreditation agency may do any of the following:

(1) Issue a reprimand.

(2) Place the outpatient setting on probation, during which time the setting shall successfully institute and complete a plan of correction, approved by the ~~division~~ *board* or the accreditation agency, to correct the deficiencies.

(3) Suspend or revoke the outpatient setting's certification of accreditation.

~~(c)~~

(d) Except as is otherwise provided in this subdivision, before suspending or revoking a certificate of accreditation under this chapter, the accreditation agency shall provide the outpatient setting with notice of any deficiencies and *the outpatient setting shall agree with the accreditation agency on a plan of correction that shall give the outpatient setting* reasonable time to supply information demonstrating compliance with the standards of the accreditation agency in compliance with this chapter, as well as the opportunity for a hearing on the matter upon the request of the outpatient center. *During that allotted time, a list of deficiencies and the plan of correction shall be conspicuously posted in a clinic location accessible to public view. Within 10 days after the adoption of the plan of correction, the accrediting agency shall send a list of deficiencies and the corrective action to be taken to both the board and the department.* The accreditation agency may

immediately suspend the certificate of accreditation before providing notice and an opportunity to be heard, but only when failure to take the action may result in imminent danger to the health of an individual. In such cases, the accreditation agency shall provide subsequent notice and an opportunity to be heard.

~~(d) If the division determines that deficiencies found during an inspection suggests that the accreditation agency does not comply with the standards approved by the division, the division may conduct inspections, as described in this section, of other settings accredited by the accreditation agency to determine if the agency is accrediting settings in accordance with Section 1248.15.~~

(e) The department may enter and inspect an outpatient setting upon receipt of a notice of corrective action or if it has reason to believe that there may be risk to patient safety, health, or welfare.

(f) An outpatient setting that does not comply with a corrective action may be required by the department to pay similar penalties assessed against a surgical clinic licensed pursuant to paragraph (1) of subdivision (b) of Section 1204, and may have its license suspended or revoked pursuant to Article 5 (commencing with Section 1240) of Chapter 1.

(g) If the licensee disputes a determination by the department regarding the alleged deficiency, the alleged failure to correct a deficiency, the reasonableness of the proposed deadline for correction, or the amount of the penalty, the licensee may, within 10 days, request a hearing pursuant to Section 130171. Penalties shall be paid when appeals have been exhausted and the department's position has been upheld.

(h) Moneys collected by the department as a result of administrative penalties imposed under this section shall be deposited into the Internal Departmental Quality Improvement Account established pursuant to Section 1280.15. These moneys shall be tracked and available for expenditure, upon appropriation by the Legislature, to support internal departmental quality improvement activities.

(i) If, after an inspection authorized pursuant to this section, the department finds a violation of a standard of the facility's accrediting agency or any provision of this chapter or the regulations promulgated thereunder, or if the facility fails to pay a licensing fee or an administrative penalty assessed under this chapter, the department may take any action pursuant to Article

5 (commencing with Section 1240) of Chapter 1 and shall report the violation to the board and may recommend that accreditation be revoked, canceled, or not renewed.

(j) Reports on the results of any inspection conducted pursuant to subdivision (a) shall be kept on file with the board or the accreditation agency along with the plan of correction and the outpatient setting comments. The inspection report may include a recommendation for reinspection. All inspection reports, lists of deficiencies, and plans of correction shall be public records open to public inspection.

(k) The accreditation agency shall, within 24 hours, report to the board if the outpatient setting has been issued a reprimand or if the outpatient setting's certification of accreditation has been suspended or revoked or if the outpatient setting has been placed on probation.

(l) If one accrediting agency denies accreditation, or revokes or suspends the accreditation of an outpatient setting, this action shall apply to all other accrediting agencies.

SEC. 14. Section 1248.5 of the Health and Safety Code is amended to read:

1248.5. The ~~division may~~ *board shall* evaluate the performance of an approved accreditation agency no less than every three years, or in response to complaints against an agency, or complaints against one or more outpatient settings accreditation by an agency that indicates noncompliance by the agency with the standards approved by the ~~division.~~ *board.*

SEC. 15. Section 1248.55 of the Health and Safety Code is amended to read:

1248.55. (a) If the accreditation agency is not meeting the criteria set by the ~~division,~~ *board,* the ~~division~~ *board* may terminate approval of the ~~agency.~~ *agency or may issue a citation to the agency in accordance with the system established under subdivision (b).*

(b) The board may establish, by regulation, a system for the issuance of a citation to an accreditation agency that is not meeting the criteria set by the board. This system shall meet the requirements of Section 125.9 of the Business and Professions Code, as applicable, except that both of the following shall apply:

(1) Failure of an agency to pay an administrative fine assessed pursuant to a citation within 30 days of the date of the assessment,

unless the citation is being appealed, may result in the board's termination of approval of the agency. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the renewal fee established under Section 1248.6. Approval of an agency shall not be renewed without payment of the renewal fee and fine.

(2) Administrative fines collected pursuant to the system shall be deposited in the Outpatient Setting Fund of the Medical Board of California established under Section 1248.6.

~~(b)~~

(c) Before terminating approval of an accreditation agency, the ~~division~~ *board* shall provide the accreditation agency with notice of any deficiencies and reasonable time to supply information demonstrating compliance with the requirements of this chapter, as well as the opportunity for a hearing on the matter in compliance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

~~(c)~~

(d) (1) If approval of the accreditation agency is terminated by the ~~division,~~ *board,* outpatient settings accredited by that agency shall be notified by the ~~division~~ *board* and, except as provided in paragraph (2), shall be authorized to continue to operate for a period of 12 months in order to seek accreditation through an approved accreditation agency, unless the time is extended by the ~~division~~ *board* for good cause.

(2) The ~~division~~ *board* may require that an outpatient setting, that has been accredited by an accreditation agency whose approval has been terminated by the ~~division,~~ *board,* cease operations immediately ~~in~~ *if* the ~~event that the division~~ *board* is in possession of information indicating that continued operation poses an imminent risk of harm to the health of an individual. In such cases, the ~~division~~ *board* shall provide the outpatient setting with notice of its action, the reason underlying it, and a subsequent opportunity for a hearing on the matter. An outpatient setting that is ordered to cease operations under this paragraph may reapply for a certificate of accreditation after six months and shall notify the ~~division~~ *board* promptly of its reapplication. *The board shall notify the department of any action taken pursuant to this section for an outpatient setting. Upon cancellation, revocation, nonrenewal, or any other loss of accreditation, an outpatient setting's license shall*

be void by operation of law. Notwithstanding Sections 1241 and 131071, no proceedings shall be required to void the license of an outpatient setting.

SEC. 16. Section 1279 of the Health and Safety Code is amended to read:

1279. (a) Every health facility for which a license or special permit has been issued shall be periodically inspected by the department, or by another governmental entity under contract with the department. The frequency of inspections shall vary, depending upon the type and complexity of the health facility or special service to be inspected, unless otherwise specified by state or federal law or regulation. The inspection shall include participation by the California Medical Association consistent with the manner in which it participated in inspections, as provided in Section 1282 prior to September 15, 1992.

(b) Except as provided in subdivision (c), inspections shall be conducted no less than once every two years and as often as necessary to ensure the quality of care being provided.

(c) For a health facility specified in subdivision (a), (b), or (f) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to ensure the quality of care being provided.

(d) During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.

(e) For acute care hospitals of 100 beds or more, the inspection team shall include at least a physician, registered nurse, and persons experienced in hospital administration and sanitary inspections. During the inspection, the team shall offer advice and assistance to the hospital as it deems appropriate.

(f) The department shall ensure that a periodic inspection conducted pursuant to this section is not announced in advance of the date of inspection. An inspection may be conducted jointly with inspections by entities specified in Section 1282. However, if the department conducts an inspection jointly with an entity specified in Section 1282 that provides notice in advance of the periodic inspection, the department shall conduct an additional periodic inspection that is not announced or noticed to the health facility.

(g) Notwithstanding any other ~~provision~~ of law, the department shall inspect for compliance with provisions of state law and regulations during a state periodic inspection or at the same time as a federal periodic inspection, including, but not limited to, an inspection required under this section. If the department inspects for compliance with state law and regulations at the same time as a federal periodic inspection, the inspection shall be done consistent with the guidance of the federal Centers for Medicare and Medicaid Services for the federal portion of the inspection.

(h) The department shall emphasize consistency across the state and *in* its district offices when conducting licensing and certification surveys and complaint investigations, including the selection of state or federal enforcement remedies in accordance with Section 1423. The department may issue federal deficiencies and recommend federal enforcement actions in those circumstances where they provide more rigorous enforcement action.

(i) It is the intent of the Legislature that the department, pursuant to its existing regulations, inspect the peer review process utilized by acute care hospitals as part of its periodic inspection of those hospitals pursuant to this section.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.5
DATE: February 2, 2011

ACTION REQUESTED: Omnibus Bill

REQUESTED BY: Louise Bailey, MEd, RN
Executive Officer

BACKGROUND:
The Senate Committee on Business, Professions and Economic Development will introduce the following two omnibus bills in 2011:

- Health Boards/Bureau Legislation
- Non-health Board/Bureau Legislation

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
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(916) 574-7600

Proposed Legislation

Business and Professions Code 2736.5
This proposal would delete "experience" from the criteria the Board would use to grant licensure. This language is outdated, and inconsistent with other code sections. Experience, as it pertains to the requirements for licensure is inappropriate terminology. Everyone, including military personnel, is required to meet the qualifications, as referenced in Business and Professions Code section 2736.

2736.5. Qualifications of persons serving in medical corps of armed forces; Records and reports
(a) Any person who has served on active duty in the medical corps of any of the armed forces of the United States and who has successfully completed the course of instruction required to qualify him for rating as a medical service technician-independent duty, or other equivalent rating in his particular branch of the armed forces, and whose service in the armed forces has been under honorable conditions, may submit the record of such training to the board for evaluation.

(b) If such person meets the qualifications of paragraphs (1) and (3) of subdivision (a) of Section 2736, and if the board determines that his education ~~and experience~~ would give reasonable assurance of competence to practice as a registered nurse in this state, he shall be granted a license upon passing the standard examination for such licensure.

(c) The board shall, by regulation, establish criteria for evaluating the education ~~and experience~~ of applicants under this section.

(d) The board shall maintain records of the following categories of applicants under this section:

(1) Applicants who are rejected for examination, and the areas of such applicants' preparation which are the causes of rejection.

(2) Applicants who are qualified by their military education ~~and experience~~ alone to take the examination, and the results of their examinations.

(3) Applicants who are qualified to take the examination by their military education ~~and experience~~ plus supplementary education, and the results of their examinations.

(e) The board shall attempt to contact by mail or other means individuals meeting the requirements of subdivision (a) who have been or will be discharged or separated from the armed forces of the United States, in order to inform them of the application procedure provided by this section. The board may enter into an agreement with the federal government in order to secure the names and addresses of such individuals.

Business and Professions Code 2770.7
This proposal would clarify existing law, by referencing the exception of a board investigation relating to substance abuse. It would add the language unless the registered nurse is accepted into the diversion program and is successful in the program pursuant to subsection (c).

2770.7. Establishment of criteria for acceptance, denial, or termination of registered nurses in program
(a) The board shall establish criteria for the acceptance, denial, or termination of registered nurses in the diversion program. Only those registered nurses who have voluntarily requested to participate in the diversion program shall participate in the program.

(b) A registered nurse under current investigation by the board may request entry into the diversion program by contacting the board. Prior to authorizing a registered nurse to enter into the diversion program, the board may require the registered nurse under current investigation for any violations of this chapter or any other provision of this code to execute a statement of understanding that states that the registered nurse understands that his or her violations that would otherwise be the basis for discipline may still be investigated and may be the subject of disciplinary action, unless the registered nurse is accepted into the diversion program and is successful in the program pursuant to subsection (c).

(c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's diversion program and successfully completes the requirements of the program. If the registered nurse withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.

(d) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the diversion program, unless the registered nurse is accepted into the diversion program and is successful in the program pursuant to subsection (c).

(e) All registered nurses shall sign an agreement of understanding that the withdrawal or termination from the diversion program at a time when the program manager or diversion evaluation committee determines the licentiate presents a threat to the public's health and safety shall result in the utilization by the board of diversion treatment records in disciplinary or criminal proceedings.

(f) Any registered nurse terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A registered nurse who has been under investigation by the board and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

Business and Professions Code 2786(b)
This proposal would amend existing law to require all nursing schools to provide clinical instruction in all phases of the educational process. Currently, all board approved schools provide clinical instruction in their programs and are required to do so to meet the Board's curriculum requirements, as set forth in regulation. It would replace the word "encourage" with "require."

2786(b) Approval of Schools
(b) The board shall determine by regulation the required subjects of instruction to be completed in an approved school of nursing for licensure as a registered nurse and shall include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of the registered nurse. The board's standards shall be designed to ~~encourage~~ require all schools to provide clinical instruction in all phases of the educational process.

Business and Professions Code 2836.2
This proposal would correct an error in existing law that cites an incorrect and nonexistent code section. The section of code currently cited does not exist, nor has it ever existed. SB 816 (Escutia, Chaptered 749, Statutes of 1999) incorporated the incorrect citation. The incorrect citation was never changed throughout the history of the bill.

2836.2. What constitutes furnishing or ordering of drugs or devices
Furnishing or ordering of drugs or devices by nurse practitioners is defined to mean the act of making a pharmaceutical agent or agents available to the patient in strict accordance with a standardized procedure. All nurse practitioners who are authorized pursuant to Section ~~2831.1~~ 2836.1 to furnish or issue drug orders for controlled substances shall register with the United States Drug Enforcement Administration.

BOARD OF REGISTERED NURSING
Legislative Committee
Agenda Item Summary

AGENDA ITEM: 8.6
DATE: February 2, 2011

ACTION REQUESTED: Exemption from Public Contracts Code: Personal Services – Expert Witness

REQUESTED BY: Louise Bailey, MEd, RN
Executive Officer

BACKGROUND:
We were notified by the Department of Consumer Affairs that in order to comply with California laws, all expert witnesses for a board must enter into a personal services contract in order to provide investigative reviews and expert reports.

Attached is an example of the Expert Witness Contract Exemption.

NEXT STEP: Place on Board Agenda

FINANCIAL IMPLICATIONS, IF ANY: None

PERSON TO CONTACT: Louise Bailey, MEd, RN
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(916) 574-7600

EXAMPLE FROM THE MEDICAL BOARD

Expert Reviewer Language

Amend the Business and Professions Code, as follows:

2024. (a) The board may select and contract with necessary medical consultants who are licensed physicians and surgeons to assist it in its programs. Subject to Section 19130 of the Government Code, the board may contract with these consultants on a sole source basis. *A contract executed pursuant to this subdivision shall be exempt from the provisions of Part 2 (commencing with Section 10100) of the Public Contract Code.*

(b) Every consultant retained under this section for a given investigation of a licensee shall be a specialist, as defined in subparagraph (B) of paragraph (5) of subdivision (h) of Section 651.

2332. (a) The *board* ~~Division of Medical Quality~~ or the Health Quality Enforcement Section of the office of the Attorney General may establish panels or lists of experts as necessary to assist them in their respective duties. When the *board* ~~Division of Medical Quality~~ or the Health Quality Enforcement Section seeks expert assistance or witnesses, and the use of voluntary services is impractical, they may retain experts to assist them, and to prepare and present testimony as appropriate, at prevailing market rates. The board shall establish policies and procedures for the selection and use of those experts~~.~~*, and an agreement executed between the board and an expert for the provision of expert services or testimony shall be exempt from the provisions of Part 2 (commencing with Section 10100) of the Public Contract Code.*

(b) The *board* ~~Division of Medical Quality~~ may also adopt regulations to create a system of volunteer physicians and others in committees or panels to assist ~~the board~~ in any of the following functions:

(1) Monitoring of licensees who have been disciplined and are subject to terms and conditions of probation or diversion.

(2) Evaluation and administration of competency examinations.

(3) Assistance to practitioners with special problems.

(4) Supervision of licensees with practice restrictions.

(5) Advice regarding policy options and preventive strategies.

(c) Commencing January 1, 1994, any reference to a medical quality review committee shall be deemed a reference to a panel of the Division of Medical Quality.